REGISTERED No. M. 7463

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VIII] Trivandrum, Monday, 18th February 1963 / 29th Magha 1884 [No. 27

NOTIFICATION

No. 1001|LA7|63.

The following Bill together with the Statement of Objects and Reasons, and Memorandum regarding delegated legislation is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

D. TIRUMALAI,
Secretary,
Legislative Assembly.

Legislature Secretariat,
Trivandrum, 18th Feb. 1963.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1963.

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L. A. Bill No. 9 of 1963

THE KERALA PLACES OF PUBLIC RESORT BILL, 1963

A

BILL

to unify and amend the law relating to the inspection and licensing of places of public resort and entertainment in the State of Kerala.

Preamble.—WHEREAS it is expedient to unify and amend the law relating to the inspection and licensing of places of public resort and entertainment in the State of Kerala;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title, commencement, extent and application.*—(1) This Act may be called the Kerala Places of Public Resort Act, 1963.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

(3) It extends to the whole of the State of Kerala:

Provided that the Government may exempt any area from the operation of this Act by notification in the Gazette.

(4) Nothing in this Act shall apply to any temple, church, mosque or other place of public worship or to any building belonging to or under the control of Government.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "building" includes any house, hut, shed or roofed enclosure;

(b) "place of public entertainment" shall mean any place, enclosure, building, tent, booth or other erection whether permanent or temporary, where music, singing, dancing or any diversion or game or the means of carrying on the same is provided, and to which public are admitted either on payment of money or with the intention that money may be collected from those admitted, otherwise than for bona fide charitable purpose, and shall include a race-course, circus, theatre, music hall, billiard room, bagatelle room, gymnasium and fencing school.

3. *No enclosed place or building with area of fifty square metres to be used for public resort or entertainment without a licence.*—Within any area in which this Act is in force, no

enclosed place or building, whether permanent or temporary, having an area of fifty square metres or upwards, shall be used for public resort or entertainment, unless a licence has been previously obtained in the manner hereinafter provided.

4. *Application for licence.*—When any person desires to obtain a licence to use any enclosed place or building for public resort or entertainment or to construct any enclosure or building for such purpose, he shall send an application to the authority specified in section 5, settingforth the name of the owner of the place or building, its situation , size and description, the material of which the enclosure or building is made or proposed to be made, whether it is or proposed to be permanent or temporary and the purpose for which it is proposed to be used.

5. *Authority to whom application should be made.*—Such application shall be made—

(1) if the enclosed place or building is situated in a city, to the commissioner of the corporation of the city;

(2) if the enclosed place or building is situated in a municipality, to the commissioner of the municipality concerned;

(3) if the enclosed place or building is situated in a township, to the Executive Officer of the township concerned; and

(4) if the enclosed place or building is situated in any panchayat area, to the executive authority of the panchayat concerned.

6. *Procedure on receipt of application.*—Upon the receipt of any such application the authority to whom it is made shall inspect the place or building in respect of which a licence is required and may call on the applicant, by notice in writing, to make any alteration or addition in the material or arrangement of the enclosure or building, or in the precautions for the safety of the public to be assembled therein and may refuse to grant a licence until the alteration or addition is made.

7. *Grant of licence.*—(1) If the authority is satisfied—

(a) that the enclosed place or building may safely be used for the purpose of public resort or entertainment proposed;

(b) that no objection arising from its situation, ownership or the purpose proposed exists,

he shall give the applicant a written licence, signed by him specifying the enclosure or building and the purpose for which it is to be used. Such licence shall be in such form and subject to such fee and conditions as the Government may from time to time by rule direct.

(2) If the authority is not satisfied as aforesaid he may refuse to grant a licence, recording his reasons for refusal in writing.

8. *Licence to state period for which it is to be in force.*—Every licence granted under this Act shall state the period

for which it is to continue in force and shall cease to be in force on the expiration of that period.

9. *Revocation or suspension of licence.*—Any authority granting a licence under this Act may for reasons recorded in writing, revoke or suspend the same when it has reason to believe—

(a) that the licence has been fraudulently obtained; or

(b) that the enclosed place or building has been used for other purposes of public resort or entertainment than that for which the licence was granted; or

(c) that the place or building can no longer be safely used for the purpose for which the licence was granted; or

(d) that any condition of the licence has been contravened.

10. *Appeals.*—(1) Any person aggrieved may appeal from any order passed under section 6, section 7 or section 9.

(2) The appeal shall be preferred within thirty days of the date on which the order was passed.

(3) In the cities of Trivandrum and Calicut an appeal shall lie to the standing committee of the respective Corporations and in relation to such appeal the provisions contained in sub-section (2) of section 385 of the Trivandrum City Municipal Act (IV of 1116) and sub-section (2) of section 388 of the Calicut City Municipal Act, 1961 (Act 30 of 1961) respectively shall apply as they apply to any of the matters specified in sub-sectcion (1) of the said sections.

(4) The appeal shall lie,—

(i) in any municipality, to the Municipal Council;

(ii) in any township, to the Township Committee; and

(iii) in any panchayat area, to the Panchayat.

(5) The appeal filed under sub-sections (3) and (4) shall be dealt with as an appeal filed under the respective enactments governing the local authorities concerned.

(6) The appellate authority shall have the same power to inspect and to require alteration or addition in the enclosed place or building as the authority to whom application is made under section 5, and may either grant or withhold the licence or make such other order as it thinks fit.

11. *Power to enter place of public resort or entertainment to inspect licence or to prevent further use.*—The licensing authority or any person authorised by him in writing may enter at any time any enclosure or building for which licence is required under this Act, inspect the licence if any has been issued, and if there is no licence, or if the conditions of the licence are not observed, prevent the further use of such enclosure or building as a place of public resort or entertainment.

12. *The District Magistrate may revise any proceedings under this Act.*—(1) The District Magistrate may call for and examine the record of any proceeding taken under this

Act, may call for any report in connection therewith, make or cause to be made any further enquiry, and may pass any order which the authority holding the proceeding might have passed.

(2) If any entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted, whether on payment or not, is held in an enclosed place or building, then, no person shall, during the course of the entertainment smoke either—

(a) on the stage except in so far as smoking may be part of the entertainment, or

(b) in the auditorium, that is to say, in that portion of the enclosed place or building in which accommodation is provided for members of the public.

(3) Any person who contravenes the provisions of this section shall be liable to be ejected summarily from the enclosed place or building by any police officer and shall also be punishable with fine which may extend to fifty rupees.

(4) A person ejected under sub-section (3) shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation.

13. *Penalties.*—(1) Every person who, having the immediate control of any enclosed place or building, permits it to be used for public resort or entertainment without having obtained a licence or, having obtained a licence under this Act, permits such use in contravention of any of the conditions of such licence shall be liable, on conviction before a Magistrate to fine which may extend to five hundred rupees.

(2) Any fine imposed by a Magistrate under sub-section (1) shall be recoverable by such Magistrate under the Code of Criminal Procedure and the same shall on recovery be paid over to the authority mentioned in section 5.

(3) Whenever any person is convicted of an offence in respect of the failure to obtain a licence in accordance with this Act, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the authority mentioned in section 5, the amount of fee chargeable for the licence in accordance with the rules for the time being in force, and may in his discretion also recover summarily and pay over to the said authority such amount if any as he may fix as the costs of the prosecution.

(4) Notwithstanding anything contained in the foregoing provisions, the licensing authority or any person authorised by him shall be competent to seal any place of public entertainment if he is satisfied that the place of public entertainment is used or proposed to be used in contravention of any of the provisions of this Act or rules made thereunder:

Provided that before taking action under this sub-section, the licensing authority or any person authorised by it shall give an opportunity to show cause within twenty-four hours of the intimation thereof why such action should not be taken.

(5) It shall be the duty of every police officer to communicate without delay to the licensing authority any information which he receives of the design to commit or of the commission of any offence under this Act or any rule made under it and to give all assistance to any of the authorities mentioned in sub-section (4) in the lawful exercise of any power vested with it under this Act or the rules.

(6) Any Police Officer who omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed an offence under section 41 of the Kerala Police Act, 1960 (Act 5 of 1961).

14. *Power to make rules.*—(1) The Government may, after previous publication, make rules, to carry out all or any of the purposes of this Act not inconsistent therewith. All such rules shall be published in the Gazette and shall come into force on the day on which they are so published or on such later date as may be specified in the notification.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15. *Repeal.*—The Madras Places of Public Resort Act, 1888 (Act II of 1888) as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Travancore-Cochin Places of Public Resort Act, 1951 (Act VIII of 1951) are hereby repealed.

16. *Power to remove difficulties.*—If any difficulty arises in relation to the transition from the provisions of any of the repealed enactments or in giving effect to the provisions of this Act the Government may by order, as occasion requires, do anything not inconsistent with the provisions of this Act which appears to them, to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

The existing laws relating to the inspection and licensing of places of public resort and entertainments in this State are the Travancore-Cochin Places of Public Resort Act, 1951 in the Travancore-Cochin area and the Madras Places of Public Resort Act, 1888, in the Malabar area. The Bill is aimed at unifying the above laws and will apply to the whole State of Kerala. Specific provisions are made in the Bill for realisation of licence fee and also of fines imposed by a Magistrate in cases where any place or building is used for resort or entertainment without a licence.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill provides that in granting a licence for the use of any enclosed place or building for a place of public resort the Government may impose such conditions as they may from time to time by rules direct.

Clause 14 of the Bill empowers the Government to make rules to carry out all or any of the purposes of the Act. The matters in respect of which rules may be made are of a routine and administrative character. The rules shall also be subject to the scrutiny of the Legislative Assembly.

K. A. DAMODARA MENON.

REGISTERED No. M. 7463.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. VIII] Trivandrum, Monday, 18th February 1963 / 29th Magha 1884 [No. 28

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Gazette Extraordinary No. 28 dated 18th February 1963.

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 10029H4|62|Law.

Dated, Trivandrum, 18th February, 1963.
Magha 29, 1884 (Saka).

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on lhe 17th day of February, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

ACT 8 OF 1963

THE KERALA LAND RELINQUISHMENT (AMENDMENT) ACT, 1963.

An Act to amend the Kerala Land Relinquishment Act, 1958.

Preamble.—WHEREAS it is expedient to amend the Kerala Land Relinquishment Act, 1958, for the purposes hereinafter appearing;

BE it enacted in the Thirteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Land Relinquishment (Amendment) Act, 1963.

2. *Amendment of long title and preamble.*—In the long title and preamble of the Kerala Land Relinquisbment Act, 1958 (Act 38 of 1958), hereinafter referred to as the principal Act, the words "by registered holders" shall be omitted.

3. *Amendment of section 2.*—In section 2 of the principal Act,—

(i) for clause (b), the following clause shall be substituted, namely:—

'(b) "relinquishment" means, in the case of any land in the possession of a registered holder, the unconditional surrender by the registered holder of all his rights over the land, and, in the case of any land in the possession of a cultivating tenant, the unconditional surrender jointly by the registered holder, the cultivating tenant and the intermediaries, if any, of all their rights over the land;';

(ii) after clause (c), the following clause shall be inserted, namely:—

'(d) the expressions "cultivating tenant" and "intermediary" shall have the meanings respectively assigned to them in the Kerala Agrarian Relations Act, 1960 (Act 4 of 1961).'.

4. *Amendment of section 3.*—Section 3 of the principal Act shall be re-numbered as sub-section (1) of that section and, after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Where any land is in the possession of a cultivating tenant, the registered holder, the cultivating tenant and the intermediaries, if any, of such land may jointly relinquish the same or any portion thereof in favour of the Government, provided that such land or portion of land is free of encumbrances.".

5. *Amendment of section 4.*—In section 4 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where a registered holder or, a registered holder, cultivating tenant and intermediaries, if any, jointly intends or intend to relinquish any land under section 3, such registered holder or, as the case may be, such registered holder, cultivating tenant and intermediaries, if any, jointly may submit an application in the prescribed form to the Collector of the district in which the land is situate.";

(ii) in sub-section (2), for the words "the registered holder is competent to relinquish and has valid title in the land", the words "the registered holder or, as the case may be, the registered holder, the cultivating tenant and the intermediaries, if any, of the land jointly is or are competent to relinquish and has or have valid title in the land" shall be substituted;

(iii) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) The Collector may at any stage of the proceedings reject the application on any of the following grounds, namely:—

(i) that the registered holder, or, as the case may be, the registered holder, the cultivating tenant and the intermediaries, if any, jointly, is not, or are not, competent to relinquish the land;

(ii) that the title of the registered holder, the tenant or the intermediaries, if any, is defective;

(iii) that there are arrears of land revenue due on the land;

(iv) that the land is not accessible except through land not belonging to the Government;

(v) such other grounds as may be prescribed.";

(iv) in sub-section (8), for the words "of the registered holder", the words "of the registered holder or, as the case may be, of the registered holder, the cultivating tenant and the intermediaries, if any," shall be substituted.

Gazette Extraordinary No. 28 dated 18th February 1963.

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 7576H1|62|Law.

Dated, Trivandrum, 18th February, 1963|
Magha 29, 1884 (Saka).

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 17th day of February, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

ACT 9 OF 1963

THE SUITS FOR POSSESSION AND INJUNCTION (RE-TRANSFER) ACT, 1963.

An Act to make provision for the re-transfer of certain suits transferred to the Revenue Divisional Officers in pursuance of section 6A of the Madras Cultivating Tenants Protection Act, 1955.

Preamble.—WHEREAS it is expedient to make provision for the re-transfer of certain suits transferred to the Revenue Divisional Officers in pursuance of section 6A of the Madras Cultivating Tenants Protection Act, 1955 (which has ceased to be in force), to the Courts which transferred the suits;

BE it enacted in the Thirteenth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Suits for Possession and Injunction (Re-transfer) Act, 1963.

2. *Re-transfer of certain suits for possession of, or injunction in relation to, land.*—If any suit transferred to the Revenue Divisional Officer by any Court in pursuance of section 6A of the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955), was pending with the Revenue Divisional Officer on the 27th day of September, 1958, on which date the said Act expired, the Revenue Divisional Officer shall re-transfer the suit to the Court which transferred the suit to him, and that Court shall proceed to deal with the suit from the stage at which it stood at the time of transfer.

Gazette Extraordinary No. 28 dated 18th February 1963.

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 11591H3|62|Law.

Dated, Trivandrum, 18th February, 1963,
Magha 29, 1884 (Saka).

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the Governor on the 17th day of February, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

ACT 10 OF 1963

THE GENERAL SALES TAX (THIRD AMENDMENT AND VALIDATION) ACT, 1963.

An Act further to amend the General Sales Tax Act, 1125, and to provide for certain other connected matters.

Preamble.—WHEREAS it is expedient further to amend the General Sales Tax Act, 1125, for the purpose hereinafter appearing, and to provide for certain other connected matters;

BE it enacted in the Thirteenth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the General Sales Tax (Amendment and Validation) Act, 1963.

(2) This section and section 3 shall come into force at once and section 2 shall be deemed to have come into force on the 1st November, 1957.

2. *Amendment of section 11.*—In section 11 of the General Sales Tax Act, 1125 (Act XI of 1125),—

(i) in sub-section (1), the proviso shall be omitted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every person who has collected or collects any amount purporting to be by way of tax under this Act on or after the 1st November, 1957, whether or not any tax is due from him under this Act in respect of the transaction in which he has collected or collects such amount, shall pay over to the Government within such time and in such manner as may be prescribed, all amounts so collected by him, if they

are in excess of the tax, if any, paid by him for the period during which the collections were made; and, in default of such payment, the amounts may be recovered as if they were arrears of land revenue.".

3. *Validation.*—Notwithstanding anything contained in any judgment, decree or order of any court,—

(a) all amounts falling within the purview of sub-section (2) of section 11 of the General Sales Tax Act, 1125, as amended by this Act, and paid by, or collected or recovered from, a dealer on or after the 1st November, 1957, shall, for all purposes, be deemed to be, and to have always been, validly paid, collected or recovered; and

(b) all proceedings taken, orders passed and acts done by any officer or authority for the collection or recovery of any amount under sub-section (2) of section 11 shall, for all purposes, be deemed to be, and to have always been, taken, passed and done in accordance with law, and all such proceedings, orders and acts may be continued as if taken, passed and done under the General Sales Tax Act, 1125, as amended by this Act:

Provided that nothing in this Act shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission was not an offence under the General Sales Tax Act, 1125, before the aforesaid date, but for the provisions of this Act.

Gazette Extraordinary No. 28 dated 18th February 1963.

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 5273|C1|62|Law.

Dated, Trivandrum, 18th February, 1963|
Magha 29, 1884 (Saka).

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 12th day of February, 1963.

By order of the Governor,
P. SANKARAN ELAYATH,
Law Secretary.

ACT 11 OF 1963

THE CODE OF CRIMINAL PROCEDURE (KERALA AMENDMENT) ACT, 1963.

An Act further to amend the Code of Criminal Procedure 1898, in its application to the State of Kerala.

Preamble.—WHEREAS it is necessary further to amend the Code of Criminal Procedure, 1898, in its application to the State of Kerala;

BE it enacted in the Thirteenth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Code of Criminal Procedure (Kerala Amendment) Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Amendment of section 4.*—In clause (o) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), hereinafter referred to as the principal Act, for the words and figures "section 20 of the Cattle Trespass Act,1871" the words and figures "section 19 of the Kerala Cattle Trespass Act, 1961" shall be substituted.

3. *Amendment of section 260.*—In clause (m) of sub-section (1) of section 260 of the principal Act, for the words and figures "section 20 of the Cattle Trespass Act, 1871" the words and figures "section 19 of the Kerala Cattle Trespass Act, 1961", shall be substituted.

REGISTERED No. M. 7463

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Vol. VIII] Trivandrum, Monday, 18th February 1963 / 29th Magha 1884 [No. 27

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D. TIRUMALAI,
Secretary,
Legislative Assembly.

Legislature Secretariat,
Trivandrum, 18th Feb. 1963.

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THE KERALA PLACES OF PUBLIC RESORT BILL, 1963

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Preamble.—WHEREAS it is expedient to unify and amend the law relating to the inspection and licensing of places of public resort and entertainment in the State of Kerala;

BE it enacted in the Fourteenth Year of the Republic of India as follows:—

1. *Short title, commencement, extent and application.*—(1) This Act may be called the Kerala Places of Public Resort Act, 1963.

(2) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

(3) It extends to the whole of the State of Kerala:

Provided that the Government may exempt any area from the operation of this Act by notification in the Gazette.

(4) Nothing in this Act shall apply to any temple, church, mosque or other place of public worship or to any building belonging to or under the control of Government.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "building" includes any house, hut, shed or roofed enclosure;

(b) "place of public entertainment" shall mean any place, enclosure, building, tent, booth or other erection whether permanent or temporary, where music, singing, dancing or any diversion or game or the means of carrying on the same is provided, and to which public are admitted either on payment of money or with the intention that money may be collected from those admitted, otherwise than for bona fide charitable purpose, and shall include a race-course, circus, theatre, music hall, billiard room, bagatelle room, gymnasium and fencing school.

3. *No enclosed place or building with area of fifty square metres to be used for public resort or entertainment without a licence.*—Within any area in which this Act is in force, no

enclosed place or building, whether permanent or temporary, baving an area of fifty square metres or upwards, shall be used for public resort or entertainment, unless a licence has been previously obtained in the manner hereinafter provided.

4. *Application for licence.*—When any person desires to obtain a licence to use any enclosed place or building for public resort or entertainment or to construct any enclosure or building for such purpose, he shall send an application to the authority specified in section 5, settingforth the name of the owner of the place or building, its situation , size and description, the material of which the enclosure or building is made or proposed to be made, whether it is or proposed to be permanent or temporary and the purpose for which it is proposed to be used.

5. *Authority to whom application should be made.*—Such application shall be made—

(1) if the enclosed place or building is situated in a city, to the commissioner of the corporation of the city;

(2) if the enclosed place or building is situated in a municipality, to the commissioner of the municipality concerned;

(3) if the enclosed place or building is situated in a township, to the Executive Officer of the township concerned; and

(4) if the enclosed place or building is situated in any panchayat area, to the executive authority of the panchayat concerned.

6. *Procedure on receipt of application.*—Upon the receipt of any such application the authority to whom it is made shall inspect the place or building in respect of which a licence is required and may call on the applicant, by notice in writing, to make any alteration or addition in the material or arrangement of the enclosure or building, or in the precautions for the safety of the public to be assembled therein and may refuse to grant a licence until the alteration or addition is made.

7. *Grant of licence.*—(1) If the authority is satisfied—

(a) that the enclosed place or building may safely be used for the purpose of public resort or entertainment proposed;

(b) that no objection arising from its situation, ownership or the purpose proposed exists,

he shall give the applicant a written licence, signed by him specifying the enclosure or building and the purpose for which it is to be used. Such licence shall be in such form and subject to such fee and conditions as the Government may from time to time by rule direct.

(2) If the authority is not satisfied as aforesaid he may refuse to grant a licence, recording his reasons for refusal in writing.

8. *Licence to state period for which it is to be in force.*—Every licence granted under this Act shall state the period

for which it is to continue in force and shall cease to be in force on the expiration of that period.

9. *Revocation or suspension of licence.*—Any authority granting a licence under this Act may for reasons recorded in writing, revoke or suspend the same when it has reason to believe—

(a) that the licence has been fraudulently obtained; or

(b) that the enclosed place or building has been used for other purposes of public resort or entertainment than that for which the licence was granted; or

(c) that the place or building can no longer be safely used for the purpose for which the licence was granted; or

(d) that any condition of the licence has been contravened.

10. *Appeals.*—(1) Any person aggrieved may appeal from any order passed under section 6, section 7 or section 9.

(2) The appeal shall be preferred within thirty days of the date on which the order was passed.

(3) In the cities of Trivandrum and Calicut an appeal shall lie to the standing committee of the respective Corporations and in relation to such appeal the provisions contained in sub-section (2) of section 385 of the Trivandrum City Municipal Act (IV of 1116) and sub-section (2) of section 388 of the Calicut City Municipal Act, 1961 (Act 30 of 1961) respectively shall apply as they apply to any of the matters specified in sub-sectcion (1) of the said sections.

(4) The appeal shall lie,—

(i) in any municipality, to the Municipal Council;

(ii) in any township, to the Township Committee; and

(iii) in any panchayat area, to the Panchayat.

(5) The appeal filed under sub-sections (3) and (4) shall be dealt with as an appeal filed under the respective enactments governing the local authorities concerned.

(6) The appellate authority shall have the same power to inspect and to require alteration or addition in the enclosed place or building as the authority to whom application is made under section 5, and may either grant or withhold the licence or make such other order as it thinks fit.

11. *Power to enter place of public resort or entertainment to inspect licence or to prevent further use.*—The licensing authority or any person authorised by him in writing may enter at any time any enclosure or building for which licence is required under this Act, inspect the licence if any has been issued, and if there is no licence, or if the conditions of the licence are not observed, prevent the further use of such enclosure or building as a place of public resort or entertainment.

12. *The District Magistrate may revise any proceedings under this Act.*—(1) The District Magistrate may call for and examine the record of any proceeding taken under this

Act, may call for any report in connection therewith, make or cause to be made any further enquiry, and may pass any order which the authority holding the proceeding might have passed.

(2) If any entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted, whether on payment or not, is held in an enclosed place or building, then, no person shall, during the course of the entertainment smoke either—

(a) on the stage except in so far as smoking may be part of the entertainment, or

(b) in the auditorium, that is to say, in that portion of the enclosed place or building in which accommodation is provided for members of the public.

(3) Any person who contravenes the provisions of this section shall be liable to be ejected summarily from the enclosed place or building by any police officer and shall also be punishable with fine which may extend to fifty rupees.

(4) A person ejected under sub-section (3) shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation.

13. *Penalties.*—(1) Every person who, having the immediate control of any enclosed place or building, permits it to be used for public resort or entertainment without having obtained a licence or, having obtained a licence under this Act, permits such use in contravention of any of the conditions of such licence shall be liable, on conviction before a Magistrate to fine which may extend to five hundred rupees.

(2) Any fine imposed by a Magistrate under sub-section (1) shall be recoverable by such Magistrate under the Code of Criminal Procedure and the same shall on recovery be paid over to the authority mentioned in section 5.

(3) Whenever any person is convicted of an offence in respect of the failure to obtain a licence in accordance with this Act, the Magistrate shall, in addition to any fine which may be imposed, recover summarily and pay over to the authority mentioned in section 5, the amount of fee chargeable for the licence in accordance with the rules for the time being in force, and may in his discretion also recover summarily and pay over to the said authority such amount if any as he may fix as the costs of the prosecution.

(4) Notwithstanding anything contained in the foregoing provisions, the licensing authority or any person authorised by him shall be competent to seal any place of public entertainment if he is satisfied that the place of public entertainment is used or proposed to be used in contravention of any of the provisions of this Act or rules made thereunder:

Provided that before taking action under this sub-section, the licensing authority or any person authorised by it shall give an opportunity to show cause within twenty-four hours of the intimation thereof why such action should not be taken.

(5) It shall be the duty of every police officer to communicate without delay to the licensing authority any information which he receives of the design to commit or of the commission of any offence under this Act or any rule made under it and to give all assistance to any of the authorities mentioned in sub-section (4) in the lawful exercise of any power vested with it under this Act or the rules.

(6) Any Police Officer who omits or refuses to perform any duty imposed on him by this Act shall be deemed to have committed an offence under section 41 of the Kerala Police Act, 1960 (Act 5 of 1961).

14. *Power to make rules.*—(1) The Government may, after previous publication, make rules, to carry out all or any of the purposes of this Act not inconsistent therewith. All such rules shall be published in the Gazette and shall come into force on the day on which they are so published or on such later date as may be specified in the notification.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

15. *Repeal.*—The Madras Places of Public Resort Act, 1888 (Act II of 1888) as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (Central Act 37 of 1956) and the Travancore-Cochin Places of Public Resort Act, 1951 (Act VIII of 1951) are hereby repealed.

16. *Power to remove difficulties.*—If any difficulty arises in relation to the transition from the provisions of any of the repealed enactments or in giving effect to the provisions of this Act the Government may by order, as occasion requires, do anything not inconsistent with the provisions of this Act which appears to them, to be necessary for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

STATEMENT OF OBJECTS AND REASONS

The existing laws relating to the inspection and licensing of places of public resort and entertainments in this State are the Travancore-Cochin Places of Public Resort Act, 1951 in the Travancore-Cochin area and the Madras Places of Public Resort Act, 1888, in the Malabar area. The Bill is aimed at unifying the above laws and will apply to the whole State of Kerala. Specific provisions are made in the Bill for realisation of licence fee and also of fines imposed by a Magistrate in cases where any place or building is used for resort or entertainment without a licence.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill provides that in granting a licence for the use of any enclosed place or building for a place of public resort the Government may impose such conditions as they may from time to time by rules direct.

Clause 14 of the Bill empowers the Government to make rules to carry out all or any of the purposes of the Act. The matters in respect of which rules may be made are of a routine and administrative character. The rules shall also be subject to the scrutiny of the Legislative Assembly.

K. A. DAMODARA MENON.